

**GENERAL NOTICE LETTER/104(e) REQUEST**  
**URGENT LEGAL MATTER, PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL, RETURN RECEIPT REQUESTED #**

Transerve Marine Inc.  
c/o Allied Marine Industries, Inc.  
500 East Indian River Road  
Norfolk, Virginia 23523

Re: SBA Shipyard Superfund Site, Jennings, Jefferson Davis Parish, Louisiana; General Notice Letter and CERCLIS #: LAD008434185; Information Request Pursuant to CERCLA Section 104(e), 42 U.S.C. §9604(e), Information Request

Dear Sir or Madam:

The purpose of this letter is to notify Allied Marine Industries, Inc., on behalf of Transerve Marine Inc., (hereinafter Allied Marine Industries, Inc., on behalf of Transerve Marine Inc., is referred to as “Allied,” “you” or “your”) of its potential liability at the SBA Shipyard Superfund Site (Site) located in Jennings, Jefferson Davis Parish, Louisiana. This letter also seeks your cooperation in providing information and documents relating to the contamination of the Site. Our records indicate that Transerve Marine Inc., is a former customer at the Site. (Enclosure 2).

**BACKGROUND INFORMATION**

The Site is situated on approximately 98 acres of land located in a rural-industrial area at 9040 Castex Landing Road, Jennings, Jefferson Davis Parish, Louisiana 70546. The Site is within Section 19 of Range 2W, Township 105 and is located at the end of Louisiana Highway 3166) which is on the west bank of the Mermentau River. The Site is approximately four miles southeast of downtown Jennings and two miles southwest of the village of Mermentau. The Site is bordered to the north by residents, south and west by wetlands, and east by the Mermentau River and wetlands.

The Site primarily consists of two separately-owned parcels of property, one southern and one northern. The southern and northern properties are generally divided by a property line that runs just north of the large barge slip. Suzanne Smaihall Cornelius, (heir of Louis Smaihall, principal of SBA Shipyards, Inc.) and SBA Shipyards, Inc. (now inactive) own the southern property, which historically was operated as a barge cleaning operation. Bunge Street Properties, LLC, f/k/a Leevac Shipyards, Inc., owns the northern property, which historically was operated as a vessel construction and repair operation.

SBA Shipyards, Inc. ("SBA") began operations at the Site on about 1965. Initially, it performed vessel construction and repair operations on what is now the northern parcel. In the 1970s, SBA constructed the graving dock on the northern parcel and dredged the barge slip and constructed the barge cleaning facility on what is now the southern parcel. Leevac Shipyards, Inc. ("Leevac") entered into a lease with option to purchase for the northern vessel construction and repair facility with SBA in 1993. Leevac operated vessel construction and repair operations on the northern parcel beginning in 1993. Leevac then exercised its option to purchase in 1998 and acquired the northern parcel at that time and continued its operations. SBA continued to operate its barge cleaning operations on the southern parcel up until approximately 2006, when Mr. Smailhall died.

Vessel construction and repair utilized two launch slips with on-land rails to haul and launch vessels and eventually a graving dock with a moving gate where a vessel could enter and the dock de-watered to allow construction and repairs on dry land. Both SBA and Leevac activities included sandblasting, cutting and painting, as well as fabricating and repairing vessels. Barge cleaning operations were conducted by SBA only on the southern parcel. SBA converted a small barge placed on land adjacent to the barge slip into its "boiler barge," which it used to generate steam for use in cleaning barges and it also served as the barge cleaning control room.

SBA cleaned barges and other vessels that had contained as last cargos a variety of materials, including, but not limited to: acrylates, asphalt, carbon tetrachloride, coal tar, coke oven tar, carbon black, carbon oil, caustic soda, creosote, cumene, black oil and black oil slop, bunker crude, diesel fuel, heavy grease, waste water, ethyl acrylates, kerosene, lube oil, methanol, number 6 oil, rust, scale, styrene, sour gas oil, soy bean oil, sulphuric acid, tallow, and vinyl acetate.

SBA used a large partially buried barge, as well as above-grade tanks constructed from cut-up barges, to store liquids, sludges, solids and other materials during the barge cleaning process. SBA also constructed and used an unlined surface impoundment called the Oil Pit to store liquids, sludges, solids and other materials. Aside from the Oil Pit, SBA used three other unlined surface impoundments, called Water Pits 1, 2 and 3, to receive wastewater, sludges, and solids from the barge cleaning process.

Records reviews indicate that SBA unsuccessfully undertook efforts to bio-remediate Water Pit 1 during 1990 and 1991. SBA proposed to implement a RCRA Facility Investigation (RFI) and submitted an RCRA RFI Work Plan in 1996, that proposed the complete closure of the impoundments and tanks. EPA issued a RCRA 3008(a) Compliance Order to SBA on July 1, 1997. On September 9, 1997 SBA entered into a Consent Agreement and Final Order (CAFO) with EPA to resolve all issues presented in the Compliance Order regarding storage, disposal and treatment of hazardous waste without a permit, and clean-up the facility. However, SBA was unable to implement any of the actions required under the CAFO.

Thereafter, in December 10, 2002 EPA entered into an Order and Agreement for Interim Measures/Removal Action (IM/RA) of Hazardous/Principal Threat Wastes at SBA Shipyards, Inc., Docket No. RCRA-6-2002-0908, pursuant to RCRA Section 3008(h) ("2002 Order/Agreement") with SBA and SSIC Remediation, LLC ("SSIC"), an entity formed by certain former customers of SBA's barge cleaning operations to conduct this work. Interim removal activities were conducted from March 2001 through January 2005 under the 2002 Order/Agreement. Interim removal activities consisted of the removing, solidifying, and recycling and/or disposing off-site the waste in the Oil Pit and Water Pit 2 and then over-excavation of the Oil Pit and Water Pit 2; removal and scrapping of above ground storage tanks; draining and refilling of Water Pit 3; removing all pumpable materials from the partially buried barge and disposing those materials off-site, then welding shut all hatches to that barge; and surface

scrapping of all visible materials from a former land treatment unit. By letter dated February 24, 2006, EPA Region 6's RCRA branch reviewed and approved the completion report of the IM/RA activities and concluded that the completion report fulfilled the 2002 Order/Agreement. The IM/RA, however, was intended as an interim response; hazardous substance remained onsite after the IM/RA.

In October 2012, the U.S. Coast Guard and the LDEQ responded to a reported release at the barge cleaning portion of the Site from an attempt to scrap the "boiler barge" and the partially buried storage barge by parties contracted by the owner of the southern portion of the Site.

During 2014 to 2015, EPA conducted a CERCLA emergency removal action and an Oil Pollution Act of 1990 (OPA) removal action after LDEQ reported barge scrapping activities and releases of visible liquids at the Site.

Between December 2012 and September 2014, EPA conducted a preliminary assessment, site inspection and expanded site inspection. As part of the EPA activities, the Agency conducted sampling activities at the Site. During those site activities, EPA sampling documented releases or threats of releases of hazardous substances in the subsurface and groundwater of the Site, the Mermentau River, and wetlands surrounding the Site. Numerous hazardous substances were identified at the Site including petroleum hydrocarbons, numerous polycyclic aromatic hydrocarbons ("PAHs"), dioxins/furans, metals, and volatile organic compounds ("VOCs"). Petroleum and non-petroleum substances found at portions of the Site are or were comingled.

Specific PAHs founds at the Site include: acenaphthene; anthracene; acenaphthylene; benzo(a)anthracene; benzo(a)pyrene; benzo(b)fluoranthene; benzo(g,h,i)perylene; benzo(k)fluoranthene; 1,1'-biphenyl; carbazole; chrysene; dibenzofuran; dibenz(a,h)anthracene; fluoranthene; fluorine; indeno(1,2,3-cd)pyrene; 2-methylnaphthalene; naphthalene; phenanthrene; and pyrene.

Specific dioxins/furans found at the Site include: Chlorinated Dibenzo-p-Dioxins and Chlorinated Dibenzofurans. Those with some of the highest TEQs include: 2,3,4,7,8-Pentachlorodibenzofuran; 2,3,4,6,7,8-Hexachlorodibenzofuran ("HxCDF"); 1,2,3,6,7,8-HxCDF; 1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin; and Octachlorodibenzo-p-dioxin.

Specific metals found at the Site include: arsenic; chromium; cobalt; lead; mercury; manganese; cadmium; copper; nickel; zinc; and barium.

Specific VOCs and Semi VOCs found at the Site include: benzene; cyclohexane; methylcyclohexane; 1,2-dichlorobenzene; ethylbenzene; tetrachloroethene; styrene; isopropylbenzene; tetrachloroethene; xylene; cis-1,2-dichloroethane; toluene; and vinyl chloride.

Local residents reportedly use the Mermentau River for recreational fishing. During the ESI, EPA observed a family of five fishing in the Site's barge slip. HRS documentation of EPA's findings identifies a human food fishery in the Mermentau River, both within and outside the zone of contamination; and Lake Arthur at the terminus of the 15-mile target distance limit.

EPA's findings identify the predominant threat to human populations, animals, or the food chain is the potential for exposure by direct contact with PAHs, VOCs, dioxins/furans, and metals.

Pursuant to CERCLA Section 105, 42 U.S.C. § 9605, the SBA Shipyard site was listed on the National Priorities List (81 FR 62397) on September 9, 2016.

On November 18, 2016, EPA entered into an Administrative Order on Consent (AOC) for Remedial Investigation/Feasibility Study (RI/FS) with some of the potentially responsible parties.

### **EXPLANATION OF POTENTIAL LIABILITY**

Based on the information collected, the EPA believes that you may be liable under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) with respect to the Site, as a current owner of the Site. Enclosure 1 is the documentation the EPA has that indicates you are a former customer at the Site.

Under CERCLA, specifically Sections 106(a) and 107(a), 42 U.S.C. §§ 9606(a) and 9607(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up the Site, unless the PRP can qualify for any of the statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Site response actions and Site costs may include, but are not limited to, expenditures for conducting a Removal Action, and other investigation, planning, response oversight, and enforcement activities. In addition, PRPs may be required to pay for damages for injury to, destruction of or loss of natural resources, including the cost of assessing such damages.

### **RESPONSE TO INFORMATION REQUEST**

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal “Superfund” law, the U.S. Environmental Protection Agency (EPA) responds to the release or threat of release of hazardous substances, pollutants or contaminants into the environment to stop additional contamination and to clean-up or otherwise address any prior contamination.

The EPA is requesting information under CERCLA Section 104(e). Section 104(e) may be found in the United States Code (U.S.C.) at Title 42 Section (section is denoted by the symbol “§”) 9604(e), 42 U.S.C. § 9604(e).

Pursuant to the authority of CERCLA Section 104(e), you are hereby requested to respond to the enclosed information request. If you have any questions concerning the Site's history or this information request letter, please contact Mr. Kenneth Talton, the designated Enforcement Officer for the Site, at phone number (214) 665-7475, fax number (214) 665-6660 or via email at [talton.chuck@epa.gov](mailto:talton.chuck@epa.gov). Please mail your response within 30 calendar days of your receipt of this request to the following address:

Mr. Kenneth Talton, Enforcement Officer  
Superfund Enforcement Assessment Section (6SF-TE)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

If you or your attorney have legal questions that pertain to this information request letter, please contact Ms. I-Jung Chiang at phone number (214) 665-2160, fax number (214) 665-6460 or via email at [Chiang.I-Jung@epa.gov](mailto:Chiang.I-Jung@epa.gov). For contact via mail, use the following address:

Ms. I-Jung Chiang, Attorney  
Office of Regional Counsel (6RC-S)  
U.S. EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

#### **FINANCIAL CONCERNS/ABILITY-TO-PAY SETTLEMENTS**

The EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. In accordance with Section 122(g)(7) of CERCLA, 42 U.S.C. § 9622(g)(7), the EPA will review financial information that you submit in order to determine whether you have an inability or a limited ability to pay response costs incurred at the Site. As part of this review, the EPA will take into consideration your overall financial condition and demonstrable constraints on your ability to raise revenue. Based upon the financial information that you may submit, EPA will determine whether it can qualify for a reduction in the settlement amount and/or an alternative payment method within the meaning of Section 122(g)(7) of CERCLA, 42 U.S.C. § 9622(g)(7).

If you believe that you qualify for a reduction in any settlement amount and/or alternative payment amount under the criteria described in the paragraphs above, please contact Mr. Talton, at 214-665-7475 for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements and an information request for your relevant financial information, and you will be asked to submit financial records including business federal income tax returns. If the EPA concludes that you have a legitimate inability to pay the full amount of the response costs, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that because the EPA has a potential claim against you, if your financial status changes in any significant way, e.g., filing for bankruptcy, you must include the EPA as a creditor. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

### **RESOURCES AND INFORMATION FOR SMALL BUSINESSES**

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf> and review the EPA guidances regarding these exemptions at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>.

The EPA has created a number of helpful resources for small businesses. The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at <http://www.epa.gov/compliance/compliance-assistance-centers>. In addition, the EPA Small Business Ombudsman may be contacted at <http://www.epa.gov/resources-small-businesses/forms/contact-us-about-resources-small-businesses>. Finally, the EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA) and information on resources for small businesses, which is enclosed with this letter as Enclosure B and available on the Agency's website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

Thank you in advance for your cooperation. We look forward to working closely with you in the future. If you have any questions regarding the notice or any of the documentation included, please contact Mr. Talton at 214-665-7475 or [talton.chuck@epa.gov](mailto:talton.chuck@epa.gov). Questions concerning legal matters should be directed to the EPA site attorney, Ms. I-Jung Chiang, at 214-665-2160 or [chiang.i-jung@epa.gov](mailto:chiang.i-jung@epa.gov). Thank you for your attention to this matter.

Sincerely yours,

Ben Banipal, P.E., Branch Chief  
Technical and Enforcement Branch  
Superfund Division

#### **Enclosures:**

- 1 Information Request
- 2 Evidentiary Documents
- 3 Small Business Resource Fact Sheet
- 4 Parties Receiving General Notice letter

Talton 6SF-TE	Chiang 6RC-S	Leos 6SF-R	Atkins 6SF-R	Johnson 6SF-TE	Peycke 6RC-S	Banipal 6SF-T